C.F. 7.

192 5

Department of Roads

OFFICE Board of Rev

STATION Adelaide

No.	2760
Dated	15. 12. 25

Date 12-12-25 Initial. MW

To whom sent	Given for copying
	Copied
	Examined
	Signed
	Given for despatch
	Despatched SN 15.12.25
	Indexed
Pages in the file	To be destroyed on*

(SUBJECT.)

Smith (Skaman) – Pullen v. re – Cs 66/35 – alleged escheat – Defence – sanctioned

* Not to be filled in in the case of permanent records.

A 722

Ref. on A3-8226-25.

South Kanara Collector's Office,

Mangalore, 9th December 1925.

From

G. W. Wells, Esquire, M.A., I.C.S.,

Collector of South Kanara.

To

The Secretary to the Board,

Land Revenue,

M a d r a s.

Sir,

Suit - Puttur - District Munsif's Court - O.S.1925-661.

******

I request the Board's sanction to defend the above suit which has been filed against Government by one Narasimhayya.

2. The suit is for a direction to Government to make over to the Plaintiff the possession of S.Nos.56/1 to 5 & 57/2 & 5 of Kadaba village.

3. The Plaintiff claims these properties as heir to ----- Lakshminarnappaya who owned them originally. Laxminarnappaya died in 1908 leaving two childless widows Bhavani and Kaveri and the pattas of the properties belonging to him were transferred to the names of these widows. Subsequently Kaveri died and the pattas were registered in the name of Jade Ramakrishnaya by right of a deed of settlement executed by the surviving widow, Bhavani and Mukambike the mother of the deceased Lakshminarnappaya in 1914. In October 1924 Bhavani also died and an anonymous petitio was received by my predecessor that the properties were liable to escheat. This petition was referred to the Tahsildar of ------- Uppinangadi for enquiry. The Tahsildar went to the house in --- which Bhavani was living on 29th October 1924 and found the whole property in the possession of Ramakrishnaya and seized some ----- moveables lest they might be made away with, in case it was ----- subsequently found that the property was liable to escheat. Further enquiry, however, showed that Ramakrishnaya was an heir and accordingly the moveables seized were released to him on 5th December 1924. Meanwhile the Plaintiff sent a suit notice on 20th December 1924 demanding possession of the property, but as

Government had not taken possession of any of the properties, it was filed with the escheat records and the Tahsildar was informed that the properties were not liable to escheat.

4. The Plaintiff however, claims only the immoveable properties. As these were not taken possession of by the ---- Government at any time, the suit is liable to be dismissed. The Government Pleader, Mangalore says that Government have a good case.

Opinion Below.

5. I request that the enclosed draft written statement prepared by the Vakil doing Government work at Puttur and ----- declared by the Government Pleader, Mangalore to be in order, may be approved.

M 3-4 ✓

6. The records noted in the margin are enclosed.

1. Copy of plaint.
2. Dis file 2 R/Rev.25 of the Uppinangadi Taluk office.
3. Dis file 447 D/Rev.24 of the Uppinangadi Taluk office.
4. Dis file 9764-24 R.of this office.
5. Copy of Mangalore Government Pleader's letter Dis 225/25 dated 6th December 1925.

7. The plaint dated 31st ---- August 1925 was served upon me on 28th ------- September 1925. The suit stands posted to 21st December 1925.

Your obedient servant,

Zaffuris

For Collector.

-9DEC 1925

M.D'S.9/12.

****

Letter-from Rao Saheb B. Mahabala Hegde, Government Pleader and Public Prosecutor, Mangalore.
To-the Collector of South Kanara, Mangalore.
Dated-Mangalore, 6th December 1925.
No.- Dis.225/25.

****

Ref.on A3-8226-25 dated 3rd December 1925.

The written statement is in order and I am of opinion that Government has a good defence

Records sent to me are herewith returned.

****

In the Court of the District Munsif of Puttur.

O.S.661/25.

Narasimhayya Plaintiff

The Secretary of State for India Defendant.

Written statement of the Defendant under Order II, Rule 1 Act 5 of 1908.

The Defendant states as follows:--

1. The Plaintiff's suit is frivolous and untenable at law.

2. The Defendant admits that the plaint property described in schedule A of the plaint belonged to Laxminarnappaya and that he died in 1908 without issue, leaving behind him 2 widows ---- Kaveri and Bhavani. Of these widows Kaveri died first and ---- Bhavani followed her having died in about 1st October 1924.

3. The Defendant is not aware of and does not admit the relationship of the Plaintiff with the deceased Laxminarnappaya as alleged in the plaint and shown in the geneology. The ----- correctness of the said geneology is denied.

4. From the enquiry held in the matter, it appears that on the death of Laxminarnappaya, his 2 widows Kaveri and Bhavani succeeded to the property and were in possession and enjoyment of it. After the death of Kaveri the surviving widow Bhavani and her mother-in-law, both executed a registered document called "Sarvaswatentra Mokteyari" dated 12th December 1914 in favour of one Jada Ramakrishnaya who is said to be the deceased. --------- Laxminarnappaya's sister's son conveying the plaint property to him. Ever since then Jade Ramakrishnaya has been in possession and enjoyment of the property with patta transferred to his --- name.

5. The Defendant denies that the Tahsildar of Uppinangadi acting on behalf of the Defendant took possession of the plaint property on 29th October 1924 or at any time as alleged in the plaint. The Government has never been in possession and ----- enjoyment of the property. Nor did they receive the profits thereof.

6. As the enquiry showed that the property was not liable to escheat, no escheat proceedings were started and Government

took no action to interfere with the plaint property. Hence it was found not necessary to reply to the registered notice sent by the Plaintiff.

7. The Plaintiff, in case he happens to be the nearest reversioner entitled to the property, has to proceed against Jade Ramakrishnaya who has been in possession and enjoyment of the said property under the aforesaid document for necessary reliefs.

8. The suit against the Defendant is quite unnecessary and there is no cause of action against the Defendant.

9. The Defendant denies the correctness of the rate of mesne profits claimed. The Plaintiff is not entitled to any mesne profits from the Defendant.

10. The Plaintiff is not entitled to any relief against the Defendant.

11. All other allegations of the plaint which are not expressly admitted herein are denied.

12. The Plaintiff's suit may therefore be dismissed with costs.

****

In the Court of the District Munsif of Puttur.

O.S.No.661/1925.

Narasimhayya, son of Ramappaya, Landholder, residing in Markanja village, Uppinangadi Taluk | Plaintiff

The address for service of all processes is as noted above.

The Secretary of State for India in Council, represented by the Collector of South Kanara. | Defendant.

Plaint under Section 26 of the Code of Civil Procedure.

The abovenamed Plaintiff begs to submit as follows:-

1. The property more fully described in Schedule A herein-below belonged to Plaintiff's cousin Lakshminarnappaya who died on 14th April 1908 leaving behind him two widows Bhavani and Kaveri.

2. Plaintiff and the deceased belonged to a divided Hindu family governed by the Mithakhshara Law of Succession. Schedule B shows their family geneological tree.

3. The said Lakshminarnappaya died issueless and the property therefore passed to his two widows aforesaid of whom Kaveri died first and the surviving widow Bhavani died on 1st October 1924,

whereupon Plaintiff who was the nearest Gotraja Sapinda to the deceased Lakshminarnappaya became entitled to the properties.

4. Nevertheless Plaintiff is given to understand that the Tahsildar of Uppinangadi purporting to act on behalf of the Defendant took possession of the property on 29th October 1924 and Government has ever since been in possession and enjoyment of the same and receiving the profits thereof.

5. Learning that it was further contemplated to start escheat proceedings in connection with the property, Plaintiff through his vakil, sent a registered notice to the Collector on 20th December 1924 bringing to notice his rightful claims to the property and demanding surrender of possession of the same with past profits. The said notice was received by the Collector on 31st December 1924 but as he has neither sent a reply to it or complied with the demand, Plaintiff is ------- constrained to file this suit for the reliefs claimed.

6. The cause of action for this suit arose on the 1st and 29th October 1924 in Kadaba Kasba village within the ---- jurisdiction of this Court.

7. The value of the reliefs claimed herein both for -- purposes of Court fees as well as for jurisdiction is ------- Rs.1122-8-10.

8. Plaintiff therefore prays for a decree against the Defendant directing him

(1) to make over the possession of the property described in Schedule A to the Plaintiff - this relief being valued at Rs.705-10-0 (assessment Rs.45-9-0 x 10= 455-10-0+value of buildings Rs.250/-)	705-10- 0
(2) to pay past mesne profits from 29th October 1924 till today at 71 muras of rice per annum (9 muras of rice being deducted for assessment) one mura of rice being valued at Rs.7/-	416-14-10
	1122- 8-10

(3) to pay future mesne profits from this day till delivery at the aforesaid rate.

(4) to pay costs of this suit together with interest on the same and on the sum claimed above and

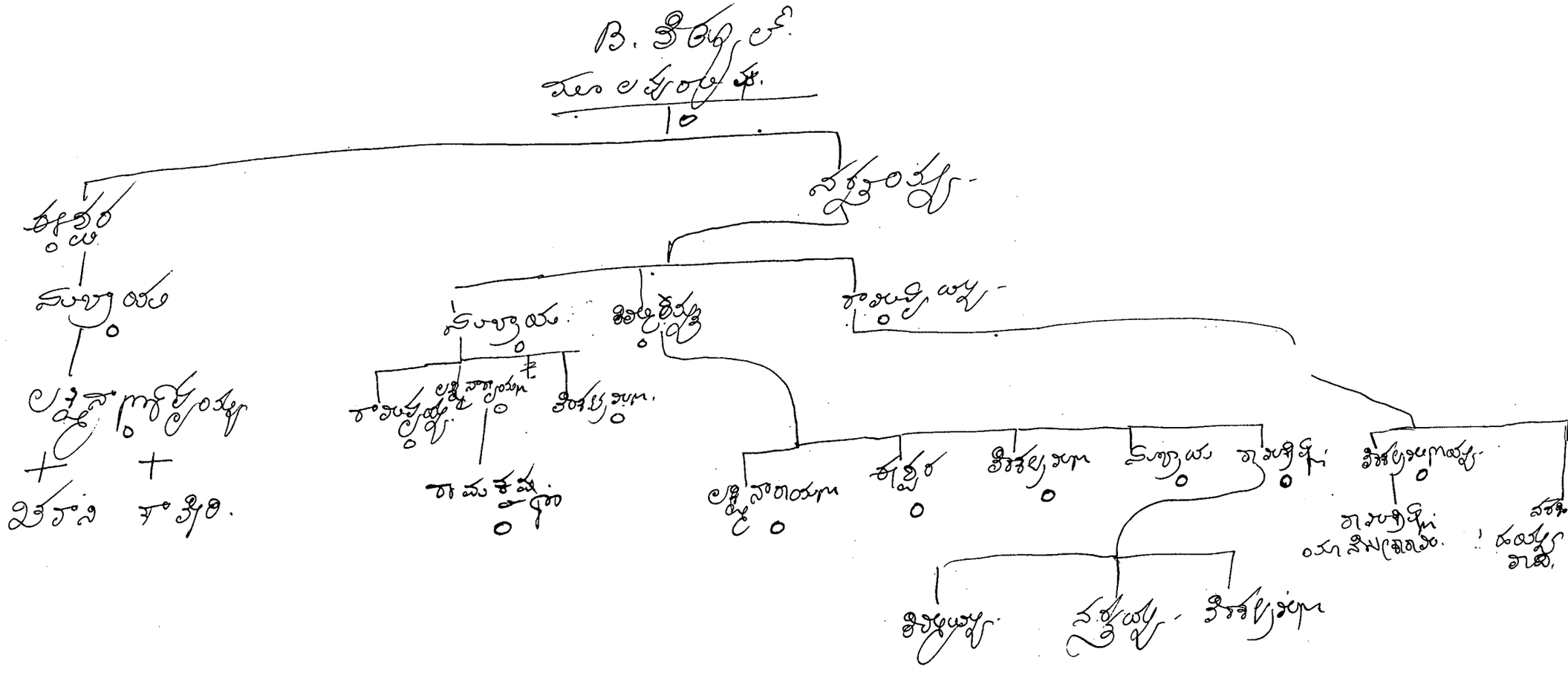
(5) for such other relief as the Court deems fit.

Schedule A.

దక్షిణాన కన్నెకంటి లింగన్న సర్వేనంబరు నుండి ప్రారంభించి. తూర్పు సరిహద్దు నంబరు 104 నుండి పడమర సరిహద్దు నంబరు 24 వరకు

సర్వే నంబరు	సబ్ డివిజన్ నంబరు	విస్తీర్ణం		శిస్తు
		ఎకరాలు	గుంటలు	రూపాయలు
56	2 నంజ.	6	39	31-15
	4 తడి	1	54	1-3
	1 బాగ్యాతం	0	78	1-9
	3 పుంజ.	0	48	0-4
	5 తడి	0	38	0-3
57	5 నంజ	1	97	9-14
	2 బాగ్యాతం	0	27	0-9
		11	81	45-9

ఉత్తరాన తూర్పు వైపున కన్నె బాగ్యాతం పశ్చిమాన కలిసి దక్షిణాన సరిహద్దు ~~గా ఉంటుంది~~ కాగా 31 వ సర్వేనంబరు 1925 —



The original plaint is signed and verified by Plaintiff and the plaint is signed by Plaintiff's vakil, M. Shiva Rao.

/True Copy/

Sd/ x x x
Pleader for Plaintiff.

4.12.2

R. F. XXII-A-19.—18,003—12-12-24.

FOR MEMBER

Subject.—

Suits (S. Kanara) - Puttur P.Ke — Gr. 661/25 - Alleged escheat - Defence — Sanctioned

READ AGAIN B.P. No. _____ dated _____ 192 .

" " " _____ " _____ 192 .

READ ALSO :—

Register No A7324/25 From the G , No. _____ , dated _____ 192

" " _____ " " _____ " _____ " _____ 192

" " _____ " " _____ " _____ " _____ 192

RESOLUTION. (Secs) No. 2760, dated 15-12 1925

The Board sanctions the defence of the suit and approves the draft written statement submitted by the Collector subject to the following modifications

(i). Delete paragraphs 2, 3 and 4.

(ii) In paragraph 7 for the concluding words "under the aforesaid document for necessary reliefs" substitute the words "of the said properties for necessary relief"

+(iii) Delete the 1st sentence of paragraph 9.

15/12

14.12.25

To the Collr of S Kanara.

C.F. 17—2-14

OFFICE NOTE.

Date of hearing 21.12.25

Subject.

Suits - (S. Kanara) - Puttur D. No. - Cr. 661/25 - alleged escheat - Defence.

From

A Register No. 7321/25 - H 1-2 Cf.

To the asst. Secy

The Collector's letter at H 1-2 Cf. is submitted for orders

2. As it is clear from the Coll's letter that Govt were never in possession of the suit property the suit must be defended.

H 3-4 Cf. 3 The draft written statt submitted by the Coll seems to be too long & unnecessary for orders if the following amendments may not be made in it -

(i) Delete paragraphs 2, 3 & 4.

(ii) In para 7 delete the concluding words "under the aforesaid document for necessary reliefs and substitute the words "of the said properties for necessary reliefs"

(iii) Delete the 1st Sentence of Para 9.

11-12-25 - H 12/12

Secy The suit may be defended as the W/S

approved as suggested above. Paras 2, 3 & 4 Containing an explanation as to how the present holder of the title possession are unnecessary & may have to be omitted Paras 7 and 9 may be amended as pointed out above

14/12

I agree throughout

14/12 14/12/15

2 A.S.

Draft submitted

14.12.15 15/12

Issue today

15/12